

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 2ND NOVEMBER 2006 / 11TH KARTHIKA 1928

WP(C).No. 20242 of 2004(I)

PETITIONER:

M.S.SUNDARAM FINANCE LTD.
ANEEZ PALACE, A.V.K.NAIR ROAD, THALASSERY
REP. BY ITS BRANCH MANAGER, K.M.RAMAKRISHNAN.

BY ADV. SRI.M.RAMESH CHANDER
SMT.K.A.SANJEETHA

RESPONDENTS:

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1. STATE OF KERALA, REP. BY SECRETARY TO
REVENUE DEPARTMENT, THIRUVANANTHAPURAM.
 2. THAHSILDAR, (REVENUE RECOVERY),
THALASSERY.
 3. MRS.SHEEJA BAI, W/O.T.V.PAVITHRAN,
MODERN HOUSE, ERANJOLI, THALASSERY.
 4. ADDITIONAL REGISTERING AUTHORITY,
SUB REGIONAL TRANSPORT OFFICE,
THALASSERY.

R3 BY ADV. SRI.A.K.ABDUL AZEEZ
R1,R2 & R4 BY GOVERNMENT PLEADER SRI. GEORGEKUTTY MATHEW

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02/11/2006 THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 PHOTOCOPY OF EXTRACT OF REGISTRATION CERTIFICATE OF VEHICLE BEARING NO. KL-13/B-4192 DATED NIL.

EXT.P2 PHOTOCOPY OF NOTICE ISSUED BY THE 2ND RESPONDENT DATED 15.6.2004

EXT.P3 PHOTOCOPY OF NOTICE UNDER SECTION 34 ISSUED BY 2ND RESPONDENT DATED 15.6.2004

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C.NO. 20242 OF 2004

Dated this the 2nd day of November, 2006

JUDGMENT

Petitioner was the financier of a vehicle bearing registration No. KL-13B-4192, purchased by the third respondent. Third respondent failed to clear the instalment arrears and also did not pay the motor vehicle tax. The vehicle was therefore repossessed by the petitioner by virtue of the lien available to the financier. Since petitioner was in possession and control of the vehicle, recovery proceedings were initiated against the petitioner for recovery of arrears of tax. Petitioner's contention is that arrears pertain to the period prior to repossession of the vehicle and therefore tax arrears could not be recovered. Section 3 of the Motor Vehicle Taxation Act makes both the registered owner and the person in possession and control of the vehicle liable for tax by virtue of the deeming provision making them liable. The liability of course is alternate and it could be recovered by the Government from either party. Section 9 of the Act makes it very clear that when the vehicle which is in arrears of tax is taken over by another person either on transfer or in the form of taking over control

or possession, the arrears could be recovered from the person to whom ownership or possession is so transferred. Since provisions of Sections 3 and 9 make it very clear that arrears could be recovered from the financier which repossessed the vehicle from the registered owner, tax can be recovered from the financier. Even though petitioner contended that registered owner has filed O.P. and obtained stay and the O.P. is pending, I do not think there is any necessity to consider that O.P. Since respondents are entitled to recover arrears of tax from the person in possession of the vehicle, it is for the petitioner and the registered owner to settle their dispute among themselves. So long as statute authorises recovery from the registered owner or from the person in possession and control of the vehicle, recovery could be made from the financier which repossessed the vehicle. Even though a contention is raised by the petitioner that petitioner during the pendency of the O.P. sold the vehicle, still the petitioner is liable because Writ Petition was filed against recovery proceedings when the petitioner was in possession of the vehicle after petitioner repossessed the vehicle.

W.P. is therefore devoid of any merit and is dismissed.

(C.N.RAMACHANDRAN NAIR)
Judge

